

# Enbridge Feedback on Proposed Amendment to Regulations Under the Ontario Energy Board Act, 1998, to Further Streamline Approvals for Pipeline Relocations or Reconstructions to Build Infrastructure Projects Faster

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## *About Enbridge Gas Inc.*

*Enbridge Gas is Canada's largest natural gas storage, transmission and distribution company based in Ontario, with more than 175 years of service to customers. The distribution business provides safe, affordable, reliable energy to about 3.9 million homes, businesses and industries in Ontario and is supporting the transition to a clean energy future through net-zero emissions targets and investments in innovative low-carbon energy solutions. With the recently announced acquisition of three gas utilities serving customers in five US states, Enbridge owns and operates the largest gas utility franchise in North America. The storage and transmission business offers a variety of storage and transportation services to customers at the Dawn Hub, the largest integrated underground storage facility in Canada and one of the largest in North America. Enbridge Gas is owned by Enbridge Inc., a Canadian-based leader in energy transportation and distribution.*

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## Executive Summary

Enbridge Gas (Enbridge) welcomes the opportunity to provide feedback on the proposed amendments to regulations under the *Ontario Energy Board Act, 1998* (OEB Act), which aim to streamline approvals for pipeline relocations and reconstructions by broadening the circumstances in which the Ontario Energy Board (OEB) can exempt such works from the leave to construct (LTC) requirement under the OEB Act. As a leading energy infrastructure company, Enbridge is committed to supporting initiatives that enhance regulatory efficiency, reduce project timelines, and enable the delivery of critical infrastructure projects. We commend the Ministry of Energy and Electrification (Ministry) for its continuing efforts to modernize regulatory processes and align with Ontario's broader infrastructure goals, including pressing goals related to housing, transit and other essential areas.

The LTC exemption framework introduced by the Government of Ontario over this past summer has already enabled Enbridge to file several exemption applications with the OEB. Enbridge is optimistic that efficiency gains can be achieved through these streamlined processes and remains committed to working with the Ministry, OEB and other stakeholders toward the effective implementation (and ongoing improvement) of the new framework.

The currently proposed amendments would take another significant step toward improving regulatory efficiency, by extending the availability of the relocation/reconstruction-related LTC exemption to any type of third-party infrastructure project or external relocation request, subject to the same conditions currently in place (i.e. control of land, cost allocation and the OEB determining that duty to consult, if applicable, has been adequately discharged). As examples, the ERO posting cites other provincially or municipally delivered transit projects, municipal water and sewer projects, flood protection projects, housing developments or projects by rail or marine authorities.

Enbridge is supportive of expanding the LTC exemption for pipeline relocation and reconstruction to reduce regulatory burden for infrastructure projects and external relocation requests while upholding Indigenous consultation processes and environmental standards. While detailed regulatory amendments remain to be seen, Enbridge recommends that the scope of the exemption be defined to include all third-party driven pipeline relocation or reconstruction, as opposed to a targeted approach which may create unintended inefficiencies by relying on narrowly defined project categories. By keeping the focus on the nature of the request itself—i.e., whether it is third-party-driven—the regulatory framework can better accommodate Ontario's diverse and evolving infrastructure needs.

## Recommendation: Expand LTC Exemptions to Include All Third-Party-Driven Pipeline Relocations

Enbridge recommends keeping the scope of the proposed LTC exemptions to include all third-party-initiated pipeline relocations or reconstructions. By adopting this approach, Ontario can achieve several key benefits:

- i. **Increased Flexibility and Responsiveness:** Moving away from a prescriptive list allows the regulation to adapt more effectively to infrastructure needs across sectors, reducing delays and enhancing the province's ability to meet infrastructure demands, while maintaining appropriate governance processes to ensure applications are reviewed and exemptions are applied correctly.

- ii. **More Aligned with Precedents in Electricity Sector:** Ontario Regulation 161/99 provides various exemptions from electricity LTC requirements, including a provision (Section 6.2(1)(e.1)) that took effect in October 2022 to exempt any transmission line where the cost is to be paid by one or more customers.<sup>1</sup> This provision illustrates the flexible and purposive approach that Enbridge is recommending, by focusing on customer-driven/funded projects as a safeguard to avoid impact on ratepayers (rather than restrictive project classifications). Notably, the current pipeline LTC exemption criteria for relocation/reconstruction already include a similar pre-condition – that the pipeline works are to be paid for wholly or partly by the external project proponent (in addition to pre-conditions around land use and adequate discharge of the duty to consult). With these safeguards in place, an approach focused on the third-party nature of the external request is warranted.
- iii. **Regulatory Clarity:** A broader exemption would reduce ambiguity around project classification/eligibility, minimizing potential interpretive challenges and the burden for possible/ frequent regulatory amendments going forward. For example, while the current regulation provides an exemption path for projects classified as *Building Transit Faster Act* (BTFA) work and other road work, other significant municipal infrastructure and housing development initiatives could also drive relocation or reconstruction requests and would benefit from a broader approach. By expanding the scope of the exemptions or including a more comprehensive list of eligible project types, stakeholders can navigate the regulatory framework with greater certainty and efficiency.
- iv. **Resource Optimization:** Expanding LTC exemptions reduces the administrative burden for pipeline operators, customers, the OEB and other stakeholders, including municipalities, Indigenous communities and third-party project proponents. Prioritizing environmental impacts and Indigenous consultation for greater regulatory oversight, this approach streamlines project approvals, lowers costs, and accelerates timelines. It also aligns with the Government's *Cutting Red Tape, Building Ontario Act, 2024*, advancing the province's broader objectives to improve regulatory efficiency and expedite housing, transit, and other essential infrastructure projects.

## Recommendation: Clarify LTC Exemption Criteria Regarding Land Use

As a matter of further regulatory efficiency, Enbridge recommends the government make minor regulatory amendments to address the following additional points of clarification for hydrocarbon line/pipeline LTC applications:

- i. **Land Use:** Currently, section 3(3)(a)(i) of Ontario Regulation 328/03 requires that “any additional land required for the relocation or reconstruction is under the control of the priority transit project proponent or road authority, as the case may be.” Enbridge suggests that these criteria be expanded to include any additional land that is under the control of the third-party infrastructure owner or an agreement has been reached with any directly impacted landowners to provide such land-use authority. This amendment

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<sup>1</sup> This is in addition to other electricity LTC exemptions, such as the broad exemption of electricity lines that directly serve most customers (i.e. distribution lines, which are 50 kV or less)

recognizes that the third-party requesting the pipeline relocation or reconstruction may not have direct control of any additional land required for the project, however there should be no regulatory concerns where the impacted landowner(s) have provided permission for the land use.

- ii. **Temporary Land Use:** Similarly, Enbridge suggests that in this same section 3(3)(a)(i) of Ontario Regulation 328/03, the government clarify that the phrase “authority to use additional land” does not include temporary land use for project workspace. While there would be an agreement in place with any impacted landowners for such temporary workspace, it should be made clear that this type of temporary land use does not trigger the need for an LTC application.

## Conclusion

The proposed amendments to further streamline pipeline relocation and reconstruction approvals represent a critical opportunity to support Ontario’s infrastructure priorities. By broadening the scope of LTC exemptions to include all third party-driven relocations and by addressing the additional minor points of clarification that Enbridge notes above, the province can further reduce regulatory delays, enhance flexibility, and ensure urgent development priorities are delivered for Ontarians. Enbridge remains committed to collaborating with the government, the OEB and other stakeholders to advance these objectives of having a regulatory framework that continues to drive efficiency, responsiveness, growth and prosperity across Ontario.

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